IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELALTE SIDE

CRIMINAL APPLICATION NO. 4654 OF 2005

The State of Maharashtra ..Applicant
V/s
Dipak Subhash Deshmukh and 5 others ..Respondents.

Mrs. M.M. Deshmukh, APP for the State.

Mr.R.B. Deshmukh, Advocate for the respondents.

CORAM : J.H. BHATIA, J.

DATE : 6TH JUNE , 2007.

P.C.

. Heard Mrs. Deshmukh, learned Counsel for the State and Mr.R.B. Deshmukh, learned Counsel for the respondents. Perused the copy of the impugned judgment.

2. To state in brief P.W. 2 Savita Deshmukh was married to accused No.1 Dipak, who is respondent No.1, on 30/3/2000. They lived together upto December, 2000 and thereafter she left her husband’s house and went to her parental house. In October, 2001, she lodged a report with the police alleging illegal demand of dowry amount and cruel treatment to her. On the basis of the report, the offence was registered and after investigation the charge-sheet was filed in the Court of

J.M.F.C.,Nashik Road. Besides the husband-accused No.1, his parents and three brothers were also made accused in the matter. As per the prosecution story, the accused/rspondent used to demand amount of Rs. 3 lakh from her and due to her inability to bring the amount from her parents the ill-treatment started. The defence of the accused was that she was having illicit relations with some other persons and she had also confessed in writing on a stamp paper. She left the husband's house on 28/12/2000. It was also contended that in April, 2001 the husband had filed a divorce petition against her on the ground of her illicit relations with some other persons. She had lodged the report against the accused persons on 18.12.2001, i.e. almost six months after the divorce petition was filed. Taking into consideration these circumstances and the contents of the confessional statement of P.W. 2 on a stamp paper, the learned Magistrate acquitted all the accused persons.

3. The State seeks leave to prefer an appeal against the acquittal. However, taking into consideration the facts and circumstances noted above, I do not find any substance in the proposed appeal.The

learned trial Court has rightly noted that there was delay of about 10 months in lodging the report after P.W. 2 Savita had left her husband's house. Not only this, she took almost six months after divorce petition was filed by her husband against her on the ground of her illicit relations with some other persons. In view of this, the learned Magistrate did not believe the prosecution story of demand of money and cruelty. There may be possibility of two different views but merely because other view is also possible, the view taken by the trial Court cannot be substantiated by the other view. The view taken by the trial Court does not appear to be perverse or per se wrong. In the circumstances, I find no justification to grant leave to prefer an appeal.

4. Leave refused. The application stands rejected.

(J.H. BHATIA, J.)